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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

STANLEY GOLAB,

Defendant and Appellant.

C081344

(Super. Ct. No. SPP00370)

Appointed counsel for defendant Stanley Golab asks this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Finding no arguable error that would result in a disposition more favorable to defendant, we affirm the judgment.

FACTS AND PROCEEDINGS

We provide the following brief description of the facts and procedural history of the case pursuant to *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.

The Underlying Convictions and Sentence

“On March 17, 2007, defendant pleaded no contest in Yolo County case No. 06-1279 (the Yolo case) to transportation of methamphetamine and was placed on Proposition 36 probation.

“Several months later, defendant pled guilty in Butte County case No. CM025422 (the Butte case) to transportation of methamphetamine, and admitted special allegations of a prior 1999 conviction for sexual battery and providing marijuana to a minor, and a prior 2006 conviction for a narcotics offense, in exchange for referral to Proposition 36 sentencing.

“At a joint sentencing hearing for the Butte case and the Yolo case (which had been transferred to Butte County), the court suspended imposition of sentence in both cases and placed defendant on Proposition 36 probation pursuant to specified terms and conditions. Defendant was ordered to report to probation on August 17, 2006.

“On August 31, 2006, defendant admitted three counts of violating probation, including failure to report to probation. Upon receipt of documentation from Butte County Department of Behavioral Health, the court concluded defendant was unamenable to treatment and terminated Proposition 36 probation.” (*People v. Golab* 2008 Cal.App. Unpub. LEXIS 10348, *1-2 (Dec. 22, 2008, C055106) [nonpub. opn.])

The trial court imposed the upper term of four years on the first violation, plus one year (one-third the middle term) for the second violation, three years for the prior narcotics conviction, and one year for the prior prison term, for an aggregate term of nine years in state prison. (*People v. Golab, supra*, 2008 Cal.App.Unpub. LEXIS 10348, *1-3 (Dec. 22, 2008, C055106) [nonpub. opn.])

Defendant appealed, and this court affirmed the judgment. (*People v. Golab, supra*, 2008 Cal.App.Unpub. LEXIS 10348, *14 (Dec. 22, 2008, C055106) [nonpub. opn.])

The Parole Violation

On December 23, 2014, defendant was released from custody and began serving his period of supervised parole subject to specified terms and conditions, including possible arrest or incarceration in county jail or state prison if he violated any law.

On October 21, 2015, defendant's girlfriend, M.A., reported to defendant's parole agent, Matt Ledbetter, that defendant was physically and sexually abusing her, and had locked her in the bedroom against her will. Defendant was taken into custody that same day.

On October 27, 2015, the parole department filed a petition for revocation of parole alleging battery on a spouse/child (Pen. Code, § 273.5; unless otherwise set forth, statutory references that follow are to this code), oral copulation with force (§ 288a, subd. (c)(2)), and false imprisonment (§ 236).

The Evidentiary Hearing and Defendant's Faretta Motions

At the October 30, 2015, evidentiary hearing, defendant claimed he was not competent. Defendant's counsel, Brandon Williams, disagreed. However, the court ordered a one-week continuance.

On November 6, 2015, defendant appeared with new counsel, Ronald Reed. The matter was again continued.

At the December 4, 2015, continued hearing, defendant appeared with Attorney Reed. The court's minutes reflect the following notation: "Defendant will not speak/communicate w/attorney – court orders Parole to provide services to restore competence? If needed not sure if feigned or real. Up to 180 days from date of incarceration – If competence restored put on calendar if not release w/conservatorship?"

On December 15, 2015, defendant filed a motion pursuant to *Faretta v. California* (1975) 422 U.S. 806 [45 L.Ed.2d 562], seeking to represent himself. The motion argued defendant's counsel was not providing adequate representation based on numerous

allegations, and requested competency proceedings pursuant to section 1368. Defendant subsequently filed a second *Faretta* motion which did not request competency proceedings.

At the December 28, 2015, hearing, defendant withdrew his *Faretta* motion and agreed to representation by his previous attorney, Brandon Williams. With regard to defendant's mental competency, the court stated, "That issue regarding [section] 1368 was never specifically raised. All [Attorney] Reed said was that he could not talk to him. I feel comfortable on this basis reinstating, or proceeding with the criminal proceedings in as much as [defendant] is able to work with [Attorney] Williams. There's no reason to delay this any further."

On January 8, 2016, defendant made an oral request to represent himself, but refused the court's request to fill out a *Faretta* waiver. The court continued the hearing.

At the January 15, 2016, continued evidentiary hearing, defendant was present and represented by attorney Fritzgerald Javellana. After denying defendant's oral request to represent himself, the court heard testimony from M.A. and Agent Ledbetter. At the conclusion of the testimony and argument by counsel, the court sustained the allegations of battery and oral copulation with force but declined to sustain the allegation of false imprisonment. The court imposed a sentence of 180 days in jail with credit for time served.

On January 19, 2016, defendant filed *Faretta* and *Marsden*¹ motions with the court, both of which challenged his representation by Attorney Williams. Thereafter, the court issued an order stating: "The case has been tried – all motions are moot. Defendant chose to mail motions they were received 1/19 case was tried on 1/15 and no mention was made with regard to [the] written motions."

¹ *People v. Marsden* (1970) 2 Cal.3d. 118 (*Marsden*).

Defendant filed a timely notice of appeal.

DISCUSSION

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. To date, defendant has not filed a supplemental brief. Having undertaken an examination of the entire record pursuant to *Wende*, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

HULL, J.

We concur:

NICHOLSON, Acting P. J.

HOCH, J.